

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.83 of 2017

Arising out of

Civil Writ Jurisdiction Case No.11484 of 2014

=====

Dr. Harihar Nath Mishra, Son of Late Makeswar Mishra, Resident of Mohalla- Ahiyapur, P.O. and P.S.- Ahiyapur, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. Bhim Rao Ambedkar Bihar University, Muzaffarpur through its Vice Chancellor.
2. Dr. Pandit Palande, Vice Chancellor, Bihar Rao Ambedkar Bihar University, Muzaffarpur.
3. Mr. P. K. Roy, Finance Officer, Bhim Rao Ambedkar Bihar University, Muzaffarpur.

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Nalin Vilochan Tiwary, Advocate
For the BRA University : Mr. Arabind Nath Pandey, Advocate

=====

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 31-07-2019

Heard learned counsel for the petitioner and learned counsel for the BRA Bihar University (hereinafter referred to as the 'University').

2. The petitioner has moved the Court alleging willful disobedience of the order dated 06.05.2016 passed in CWJC No. 11484 of 2014. By the said order, the Court had issued the following directions:

“If such a comprehensive representation is filed on behalf of the petitioner with a certified copy of the present order within a period of one month from today, then the respondent Vice-Chancellor of B.R.A. Bihar University,



Muzaffarpur either himself or any other competent authority of the respondent University, as per his direction, shall be obliged to consider and decide the claims raised on behalf of the petitioner by a reasoned and speaking order, after giving an opportunity of hearing to all concerned including the writ petitioner, at an early date, preferably within a period of two months from the date of filing of such representation by the petitioner.

If on consideration of the materials and after hearing the parties, the competent authority of the respondent University comes to a conclusion that the claims raised on behalf of the petitioner are admissible to him, then the consequential orders shall also be issued for grant of such admissible claims and lawful dues of the petitioner shall be paid without any unnecessary further delay.”

3. From the aforesaid, it is clear that the claim of the petitioner was to be considered by the University authorities and disposed off by a reasoned and speaking order within two months from the date of filing of the representation by the petitioner. It was further stipulated that all admissible claims and lawful dues of the petitioner be paid without any unnecessary delay.

4. In the present case, the petitioner made a representation for payment of his claims before the University authorities on 25.06.2016, pursuant to which it appears that payment of gratuity was made to him in July, 2017. With regard to the remaining claims, the University called upon the petitioner to submit the same which he did on 02.07.2017 and pursuant thereto, the University had paid such dues on 10.01.2019.



5. Though, payments have now been made but learned counsel for the petitioner submitted that he may be awarded cost for the reason that he superannuated in the year 2005 and even after coming to the Court and getting an order in which time fixed for making such payment was two months, the same has been flouted by the authorities and such delay is not fit to be condoned.

6. Learned counsel for the University submitted that the University having made the payment, the Court may not award cost as there was no willful or deliberate laches on the part of the University.

7. Having considered the matter, though contention of learned counsel for the University is correct that the payments have now been finally made and the order complied with, the Court could have taken a lenient view, however, in the peculiar facts and circumstances of the case, had the petitioner not superannuated in the year 2005, the Court may have been persuaded to accept the plea of learned counsel for the University and condoned the delay in making such payment, but a person after superannuating in the year 2005, being paid his dues after almost one and half decades has suffered irreparable loss for no fault on his part. Thus, the Court is inclined to award cost in his favour. Here again the Court, being fair to the University, would



not take cognizance of the period when the petitioner had not approached this Court i.e., 2005 to 2014.

8. Thus, the Court would take into consideration the period which is the delay i.e., at the expiry of the time granted by the Court to comply with the order. Accordingly, on the basis of admitted facts relating to consideration of the claim of the petitioner, as has been noted in the order hereinabove, the application stands disposed off in the following terms:

(a) The petitioner is held entitled to simple interest at the rate of 10% per annum on the amount of Gratuity for a period of 11 months i.e., from August, 2016 till June, 2017, in the background that he had made his application in May, 2016 and the Court had granted the authorities two months time and, thus, this Court is not awarding cost till July, 2016 on such payment.

(b) Further, on difference of salary which was paid to him on 10.01.2019, the same shall also carry simple interest at the rate of 10% from October, 2017 till December, 2018, in the background that the petitioner had submitted his further claim on 2nd July, 2017 and, thus, giving a grace of two months, the period has been fixed.

9. Such payment be made to the petitioner within one month from today, failing which the petitioner shall be at liberty to



move this Court with regard to non compliance of the present order.

(Ahsanuddin Amanullah, J.)

P. Kumar

AFR/NAFR	
U	
T	

